

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII**

CHAPTER 13 ATTORNEY FEE GUIDELINES

(amended December 1, 2003)

1. **Scope.** Pursuant to LBR 2016-1(c), the following are guidelines under which the court will, as part of the plan confirmation process, award and allow compensation and reimbursable expenses, and provide for their payment under the plan, to attorneys representing Chapter 13 debtors.

2. **Attorney Options.** An attorney may decline to seek an award, allowance, and payment of compensation and expenses, pursuant to these guidelines. If an attorney so declines, the award, allowance, and payment of compensation and expenses shall be governed by applicable authority including, without limitation, 11 U.S.C. §§ 329 and 330, Fed. R. Bankr. P. 2002, 2016, and 2017, LBR 2016-1, and the Guidelines for Chapter 13 Procedures. This authority requires, at a minimum, that detailed billing records be kept and filed with a fee application and summary sheet.

3. **Expedited Approval of Fees Through Plan Confirmation.** Attorneys may have their fees and expenses awarded and allowed as part of the Chapter 13 plan confirmation process without filing a separate detailed application. To request this expedited approval, all of the following conditions must be satisfied:

- (a) The attorney has filed the disclosure of compensation required under 11 U.S.C. § 329(a) and Fed. R. Bankr. P. 2016(b);
- (b) The attorney has filed an executed copy of the “Rights and Responsibilities of Chapter 13 Debtors and Debtors’ Attorneys,” a copy of which is attached hereto;
- (c) The amount requested does not exceed the maximum amounts stated in paragraph 5, and
- (d) No objection to the request has been filed.

4. **Reasonable Fees for Normal and Customary Services.** Having considered comments by the Office of the United States Trustee, the Chapter 13 Trustee, and members of the local bar, and a review of attorney fee applications and attached billing statements on file, the court has determined, in accordance with 11 U.S.C. § 330(a)(4)(B), that the amounts stated in paragraph 5 are presumptively reasonable for normal and customary legal services rendered by an attorney in representing the interests of the debtor in connection with the bankruptcy case. These amounts represent the maximum amount of fees and expenses that may be awarded and allowed through plan confirmation without the filing of a detailed compensation application. These amounts are subject to periodic review by the court and the Office of the United States Trustee.

5. **Maximum Fee Amounts.**

- (a) The maximum amounts which may be awarded and allowed through the procedure described in paragraph 3, including expenses and any general excise tax but not including the fee for filing the petition, shall be determined by fees corresponding to the following components:
 - (1) **Basic Case** - normal and customary legal services and expenses, including without limitation: analyzing the debtor’s financial situation; providing all necessary advice, explanations, and counsel to the debtor about the bankruptcy case; preparing and filing the

petition, schedules, statement of financial affairs, plan and any amendments of these documents; preparing and filing unopposed motions to avoid liens and value collateral; representing the debtor at the meeting(s) of creditors and confirmation hearing(s); providing information on the debtor's income or other matters as requested by the Chapter 13 Trustee in a consumer case; negotiating any unopposed assumption or rejection of leases; responding to objections to confirmation and motions to dismiss; and reviewing and objecting to claims;

- (2) **Tax Claims** - requiring the attorney to negotiate or resolve disputes with the taxing authorities, including situations where there are outstanding tax returns or payments, and objections to plan confirmation;
 - (3) **Secured Claims: Personal Property** - involving vehicles or other personal property that are subject to valuation or avoidance disputes, requiring the attorney to negotiate or resolve disputes with secured creditors, including matters concerning relief from stay and adequate protection, and objections to plan confirmation;
 - (4) **Secured Claims: Real Property** - involving real property in foreclosure or anticipated to be the subject of foreclosure which the debtor is or will be opposing, requiring the attorney to negotiate or resolve disputes with secured creditors, including matters concerning relief from stay, adequate protection, valuation and extent of a security interest, and objections to plan confirmation; and
 - (5) **Business Reporting** - requiring the attorney to advise the debtor with respect to periodic financial reporting to the trustee.
- (b) The maximum amounts for the above-described components are:
- (1) **Basic Case** - \$1,800;
 - (2) **Tax Claims** - \$300;
 - (3) **Secured Claims: Personal Property** - \$100 for each motion to avoid lien included with the plan, and \$200 for each motion to value collateral (personal property) included with the plan, but not more than \$500 in the aggregate;
 - (4) **Secured Claims: Real Property** - \$400; and
 - (5) **Business Reporting** - \$1,000.

6. Failure to Satisfy Conditions for Expedited Approval. An attorney who has elected the expedited approval of fees and expenses under these guidelines but who has not satisfied all the conditions stated in paragraph 3 shall not receive any plan distributions for payment of an administrative expense, shall not draw on any funds advanced and held in trust for the debtor, and may be required to refund all or a portion of any fees received in connection with the bankruptcy case, pursuant to 11 U.S.C. § 329(b). Unless the conditions of paragraph 3 are satisfied in full prior to confirmation, the attorney must seek approval of attorney fees and expenses by separate application under LBR 2016-1(a) and other applicable authority. The pendency of such an application shall not delay plan confirmation or the commencement of plan payments pursuant to a confirmed plan.

7. Fees for Additional Services. If the amount of fees and expenses awarded and allowed in the plan confirmation order is not sufficient to compensate the attorney for the actual legal services rendered in the case due to unforeseeable circumstances, the attorney may apply for additional amounts by completing and filing an application and notice that substantially conforms to the court-approved form (hib_2016-13a), and attaching detailed billing records. The application for additional fees shall disclose any effect which the allowance of such fees may have on the plan and payments to creditors. The application and notice shall be filed and served on the debtor, the Office of the United States Trustee, the Chapter 13 Trustee, and all creditors. Absent an objection filed within 20 days after the date of such notice, the court may award and allow additional fees and expenses without a hearing.

8. Payment of Fees Through Plan. Except for any attorney fees and expenses paid by the debtor prior to the filing of the petition, all fees shall be paid through the plan unless otherwise ordered. Postpetition, the attorney may not receive fees directly from the debtor, or from another party on behalf of the debtor. In the first distribution period after the entry of the order confirming a plan and authorizing the payment of attorney fees, the trustee shall pay the attorney 50% of the funds then held by the trustee. Thereafter, the trustee shall disburse monthly to the attorney the lesser of 50% of the monthly plan payment or \$250 per month of each plan payment until the fee is paid in full. For additional fees awarded under paragraph 7, the trustee shall disburse monthly to the attorney the lesser of 50% of the monthly plan payment or \$250 of each plan payment, commencing with the first distribution period after the entry of the order allowing the additional fees and expenses.

9. Payment of Attorney Fees in Dismissed or Converted Case. If an attorney has elected the approval and payment of fees and expenses under these guidelines and the case is dismissed or converted prior to confirmation of a plan, absent a contrary order, and to the extent funds are available, the trustee shall pay to the attorney an administrative claim equal to 65% of the total fee the debtor agreed to pay less any prepetition retainer. The attorney shall not collect or receive additional fees from the debtor or a third party unless authorized by the court.

10. Inherent Authority of Court to Review Fees. On its own motion or the motion of any party in interest, the court may review any fees and expenses paid or requested to be paid.

11. Effective Date. These guidelines are effective in all Chapter 13 cases in the District of Hawaii on December 1, 2003, to the extent practicable. The maximum fee amounts stated in paragraph 5 are effective in all cases filed under or converted to Chapter 13 on and after December 1, 2003. Previous guidelines dated January 1, 2001, remain effective for fee amounts in Chapter 13 cases pending before December 1, 2003.